

Some Reasons and Arguments, why the Records, of the Claims, and Presentments made before the late Justice in Eyre in the Forest of Waltham in the County of Essex, and some other Forests now remaining as Publique Records in the Tower of London, and preserved from the spoyle and ravage of the late times of Usurpation, ought not to be deliver'd out of the said Tower, to the now Lord Chief Justice in Eyre of all his Majesties Forrests, Chaces and Parks on this side Trent.

THE Publique Records of the Kingdom do so much concern the King and his people, as they are in a Petition of the Commons of England in Parl. An. 46 Ed. 3. n. 43. declared to be the
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Peoples perpetual Evidences, and that they ought of reason to remain there. And were so pretious unto them, as they made it their humble suite in Parliament (and obtained an Act of Parliament thereupon) that they might not be denyed an accesse unto them, to search and take Copies of any their Concernements therein.

And so carefull were many of the *Kings of England* therein, as they did (untill the beginning of those troubles and turmoyles of the *Kingdom*, which began in 11^o Ric. 2. and continued untill 1^o H. 7.) diligently gather into the Kings *Treasury* of the *Exchequer* (a fit Repository for such Jewells) all the Records of the *Kingdom*, either concerning the King or the people, and to that end did by their Writs and Mandates directed unto the Judges of the Courts of the *Kings Bench*, and *Common Pleas* at *Westminster* ; several times command them (by Schedules and Indentures made betwixt them and the King) to deliver into that safe Custody, the *Writs*, *Pleadings*, *Rolls* and *Records*, remaining in those several Courts, which were punctually observed. And those of the *Chancery*, untill the Raig of King *Henry* the 7th have been for the more security lodged in
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the Tower of London. From whence it was, that the Chamberlaines of the Exchequer; are able yet to produce all, or very many of those kind of Records, Except such as the devouring teeth of Time, and the Rebellion of *Wat Tyler*, and his Rout of wicked Reformers, or the misfortunes of some casualties have bereaved us of.

And that the people do receive daily benefits and accommodations by the Coroners and Hundred Rolls, *Quo Warranto's* and *Claimes* allowed thereupon, *Affize Rolls*, and *Inquisitions*, the Rolls of the Courts of *Kings Bench*, and *Common Pleas*, and the *Iters* and *Justice* in *Eyres Rolls*, amongst whom are those usefull Records of *Thomas Earl of Lancaster*, Justice in Eyre, called *Pickering*, exemplified in *Pat. 13. Edw. 3. pars 1. mem. 17.* and in other Rolls in the Tower, and also that of *Lancaster Iter*, both of them so much mentioned in the 4th part of the Institutes of *Sir Edward Cooke*, and many others.

And whether the Kings of England did in their Writs and Commissions, as in many of them specially direct Certifications and *scire fac. quid inde fecerint, &c.* and Inquisitions where they were found, to be returned. Or

where there were no such special clauses inserted; Yet the ordinary care of our *Princes*, and of those that did officiate under them by vertue of any such *Office*, *Writs*, or *Commissions*, did not seldom bring into the publique Records many of those memorialls with which the after Generations have been supplied, for otherwise they would have been left to the unsafe and carelesse custody of Executors and Administrators, or of private or unconcerned men, which would have bereaved posterity of all those many great lights and Assistances which the publique *Scrinia* or *Archives* have almost daily upon important occasions and Emergencies afforded us.

As it happened in the losse of many of the Records of the *Admiralty* and *Court Military*, the *Coroners Rolls* since the Raign of King *Hen. 4.* and of the *Clerks of the Peace*, and *Clerkes of the Assise Rolls*, and *Bookes*, and of the *Rolls of Stewards of Court Leetes*, and *Court Barons*, which have been either lost, or misused or obscured; and many Customes, things, and matters of Consequence very usefull and necessary to be known: have so sunk into the lake of oblivion as there are now no *vestigia* or foot-steps thereof to be found. And our former ages
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were ever so carefull of the Records and memorials of this Nation, (which are next unto the Sacred Scriptures, the truest touchstones and testimonies of the *truth*, and cannot lye ;) and so highly esteemed them as they could never think them fit to be hazarded. And therefore the *Judges* of the *Court of Common Pleas* at *Westminster*, being upon Writs of Error directly, and in expresse Terms commanded by the King to send *Recordum & Processum* unto him in his Court of Kings Bench, do only send the transcripts.

And being commanded to certifie an Outlawry into the Exchequer, do not send the Outlawry it self, but a Copy or transcript thereof. And the *Records* of the *Kingdom* do so little personally belong unto *Judges* and their successors, as the Records of the Courts of *Kings Bench* and *Common Pleas*, whether the Judges live or dye, are kept in the Treasuries of those several Courts.

And in case of Fines taken upon *Dedimus Potestatem*'s not returned, the King sends his Writs to the Executors or Administrators of those Judges that took them, to certifie them.

The *Lord Chancellor of England*, the greatest officer of Justice and Equity in the Kingdom,
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and only Second to the King in it, and hath the keeping of the *Great Seale*, and *Teste Me ipso*, keeps not himself the Records of that high Court of *Chancery* the *Officina Justiciae*, but leaves it to the *Master of the Rolls* to do it.

The Records of the *Kings Secretaries*, and most of their transactions and businesse are not in their own Custody, or so moveable as to be transferred to the persons of their successors in those Places, but are only fixed and resident in the Registry of the *Signet* and the *Paper Office* at *Whitehall*.

The *Lords Chief Justices* of the *Kings Bench* and *Common Pleas*, at their admissions and entrance into their offices and Places, are assisted by the Kings mandate to have *Omnia Rotulos & Brevia* thereunto belonging delivered unto them, and although they have their Treasuries wherein to keep their particular Records, which are by the King transmissible to their successors, yet when they (aswell as their associate Judges) are Itinerant, and in their Circuits, all actions are brought unto them, and tryed by transcripts and Copies onely of those Records.

The *Kings Attorney Generalls* have not in their peculiar custodies the *Rolls and Records* of the

the *Crown Office* in the *Kings Bench*, or the *Records of the Utlaries* in the *Court of Common Pleas*, Although that diligent and great Agent in the *Crown* affairs is so much concerned and conversant in them.

So as it cannot be understood, to be either the *Law*, or any of the antient and reasonable *Customs of England*, to have the *Publique Records* of the Nation Ambulatory, or kept in any private or particular custody, betwixt which and the *Publique*, there will be as great a difference, as there is betwixt safety and danger.

Or that the *Kings Treasuries* of his *Records*, of the *Tower of London* and the *Exchequer*, could have shewed those antient *Iters*, *Justice in Eyres Records*, *Perambulations*, *bounds of Forrests*, and the *Peoples rights* and *Claimes thereunto*, if they had been as *Itinerant*, moveable, and mortal, as many of the chief *Justices in Eyre* have been, some whereof have been only during *Pleasure*.

Or that the *People* would have been in any good condition, when their claimed and proved rights and *Evidences* shall be no where to be found, but in the hands of a *Lord Chief Justice in Eyre* and his servants, and after his death not certain where to be found, but lost or imbezilled; or altered, or corrupted, or that
their

their changeable Servants should be the *Clerks* and *Keepers* of the *Records*, or that the *Claymants* of their Rights and Liberties should be enforced to pay the *Chief Justice in Eyres Clerks* in the *Iters Secretaries*, or *Valets du Chambré* their unlimited rates for Copies, and yet not have them Authentique.

When it may be with some confidence averred, that *Records* once made publique, and lodged in the *Tower of London* or the *Kings Treasuries* were never enforced from their *Keepers*, or drawn out, or put again into private hands.

That the *Red Book* of the *Exchequer* written by *Gervasius Tilburienfis* being once but the writings and labours of a private man in the *Raign of King Hen. 2.* and since comming to be a resident of the *Exchequer* (or the Book called the *Parliament Book* in the *Tower*) were never yet upon any pretences disquieted or removed into any private hands whatsoever.

That all or any of the former *Records* in *Chancery*, the *Exchequer*, or the *Tower of London*, concerning the *Dutchy of Lancaster*, and the many great possessions of several *Earldoms* annexed and united unto it, were not (although that *Dutchy* doth by *Act of Parliament*

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at this day remain distinct and seperate from the *Crown of England*) delivered out to *John of Gaunt Duke of Lancaster* and his heirs, when they were afterwards owners of that Dutchy, neither were all the former Records of *Aquitane* (many of which do yet remain in the *Tower of London*) taken out and put into the hands of the said *John of Gaunt*, when he was made *Duke of Aquitane* in France by his Father our King *Edward the third*.

The many usefull *Registers* of the Archbishops of *Canterbury* and *Torke*, and their Suffragan Bishops were so alwayes kept in *certo loco* amongst other the publique Records of their Churches and *Diocesses*, as they were never at all transferred or put into the private possession of any succeeding Bishops.

The most usefull *Books, Calendars* and *Abstracts*, now remaining in the receipt of the Exchequer made and compiled by Mr. *Agar*, and in the *Tower of London* by others, were never since removed or haled out of the service of the Publique.

The last *Earl of Holland* when he was *Justice in Eyre*, did neither seek nor get into his hands

and custody the Records of the *Iter of Pickering*, nor of *Hugh de Nevill*, or of many former *Iustices of Eyre*, nor did send to the Chamberlains of the Exchequer, or labour to procure the *Kings Warrant* or the Warrant of his *Attorney or Solicitor General*, for to deliver unto him all the Records of the *Iters and Claymes* allowed, or not allowed in the Custody of the Chamberlains of the Exchequer, nor to the Master of the Rolls in Chancery (whose Clerks the Keepers of the Tower Records are) for all the *Commissions, Perambulations* of the *Forests* and *Inquisitions* which do concern them, but contented himself, as all his Predecessors did with Copies or transcripts, thereof or had some of the Clerkes themselves, (if need were,) to attend with the Records themselves.

It being to be remembred, That in the *Capitulis Coronæ & Itineris*, to enquire of many things concerning the *King* and the *People*, out of which the liberties and trespasses of the *Forests* were not Exempted; It is said by *Fleta*, who wrote about the Raiga of King *E. 2.* that *Presentationes Juratorum debent terminari,*
quantum

quantum iustitia per iudicium necessitas iustitiorum,
riorum, quæ cum finem ceperint statim mittenda
sunt brevia, & loquelæ pendentes; adjor-
nanda coram Justiciariis de Banco. Et coram Rege
& ad Scaccarium dum tamen Regem contin-
gunt, & super hoc sunt partes præmunite &
adjornatae.

And by the Statute of Westminster 2. Ju-
sticiarii habent Clericos Irrotulantes.

And that the Proceedings by the Justices
in Eyre and the Claims allowed or disallow-
ed were returned, certified and remained
amongst the Kings Records is not to be
doubted, for that so many of them are there
to be found.

For the Rule in the Register is, that *En Register*
Eyre tout les recognizances que demandant Exe- 151.
cutions, (the Justice in Eyre for the Forests
taking many times Recognizances to appear
before the chief Justice in Eyre to answer
for misdeameanors committed in the For-
rest) *Et toutes les Judgments que sont renduz,*
ferron maundes en Bank le Roy pur Awer Execu-
tion, mes toutes les autres Pleees sur queles
Judgment nest pas renduz, ferront maundes en

Common Bank, per totum Judicium.

27 E. 1.
Reg. Rot.
3. Wigorn.

And it was alleadged in the Judgment given in the Kings Bench in 27 Edward 1. against Godfrey Bishop of Worcester, upon an Inquisition taken before Hugh Le Despenser Justice of the Forest on this side Trent for trespassse done in the Forest of Windsor, That *Procedi non potuit ad finem capiendam de prædicto Episcopo sine Recordo prædicti Hugonis le Despenser Justic. &c.*

And in all Commissions and Articles directed or delivered to the Justices in Eyre, it is, *Salvis nobis finibus & amerciamentis*; Which cannot be estreated nor made out without the sight and custody of the Records themselves which do contain them.

And in 4 R. 2. a grant for life being made to one of the Office or Place of Guardian or Justice in Eyre of all the Kings Forests and Chaces on this side Trent, there is an Expreſſe provision, that *Ballivi, Ministri, ac alii quos prefatus Gardianus ratione Custodiæ prædictæ de Exitibus, & aliis ad nos in dicta Foresta spectantibus* (which could not be done, or charged without the Records of the

into the Exchequer) *onerabunt, nobis inde respondeant ad Scaccarium nostrum deferant ibidem more solito liberandis.*

-And it is to be considered, That when the *Earl of Holland* (the *Earl of Oxford*s Predecessor as *Chief Justice in Eyre*, and his Officers, either by carelessness and the sudden and unexpected *Hirocane* of the troubles of the times, did omit to return, or lay amongst the *Kings Records*, those evidences of the *King and People*, It was no disservice to the *Crown* to preserve them, as was done by *Mr. Ryley* one of the *Clarkes* thereof.

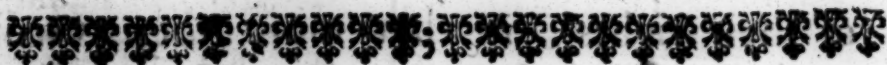
And that it will be no great safety for him, or any other, now they are put where they should be, to be after subject to the Complaint of the *Commons of England in Parliament*, that their *Evidences* and *Claymes* of their rights, in that more then Ordinarily eminent *Justice in Eyres Seate* (especially when by an *Act of Parliament* in the 17th year of the Raign of *King Charles the Martyr*, those and other *Forests*, were more than

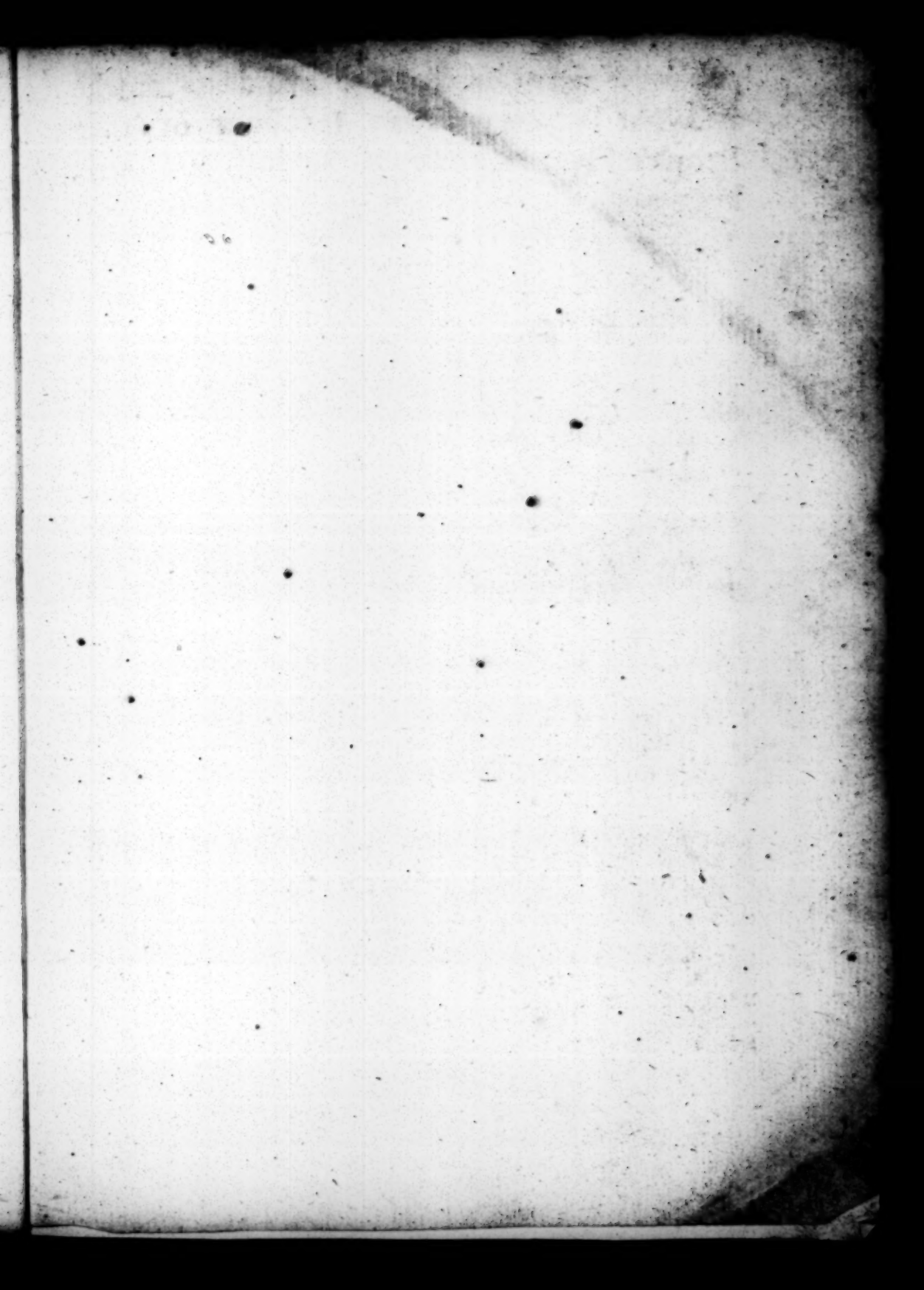
than formerly boundaries, and stones and
publique marks erected, to avoid as much
as might be, any further Invasions of the
Peoples liberties) should be lost and im-
bezilled.

9 May 1665.



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